

P.E.R.C. NO. 2023-55

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(CORRECTIONS),

Petitioner,

-and-

Docket No. SN-2023-001

PBA LOCAL 105,

Respondent.

SYNOPSIS

The Commission grants, in part, and denies, in part, a scope of negotiations petition filed by the State of New Jersey (Corrections) seeking a restraint of binding arbitration of a grievance filed by PBA Local 105 that asserts the State violated the parties' collective negotiations agreement when it temporarily reassigned eight Senior Correctional Police Officers (Grievants) from bidded posts (assignments that involved no inmate contact) and replaced them with other officers who, while under investigation for use of force against inmates, were deemed not able to have contact with inmates. The Commission restrains arbitration of: (1) the substantive decision to make the non-disciplinary temporary reassignments to ensure operational effectiveness and inmate safety, as that was an inherent policy determination not legally arbitrable under Local 195; (2) the claim of lost shift overlap pay resulting from the reassignments, which is not arbitrable when, as here, such loss flows directly from an otherwise non-negotiable transfer or reassignment decision; and (3) the claim that the reassignment infringed on the grievants' contractual seniority rights, which the Commission finds is not arbitrable under the circumstances presented. The Commission denies restraint on the issue of whether the State provided adequate notice of the reassignment, which concerns a procedural aspect of the decision that is legally arbitrable.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 2023-56

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEPTUNE TOWNSHIP BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2023-031
SN-2023-032
SN-2023-033
(CONSOLIDATED)

NEPTUNE TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission partially grants, and partially denies, the Board's request for restraint of binding arbitration of the Association's grievances challenging the Board's decision not to restore previously withheld salary increments and contesting the Board's off-guide formula for calculating the post-increment withholding salaries of three teaching staff members. The Commission finds that N.J.S.A. 18A:29-14 preempts the Association's grievances to the extent they seek to compel the Board to restore the previously withheld increments. The Commission finds that to the extent the Association's grievances contest the calculation of the grievants' post-increment withholding salaries and proper salary guide placement under the terms of the parties' new CNA, it is a legally arbitrable salary issue that does not interfere with the Board's statutory prerogative to not restore the increments.

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P.E.R.C. NO. 2023-57

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(OFFICE OF EMPLOYEE RELATIONS),

Respondent,

-and-

Docket No. CO-2023-119

COMMUNICATIONS WORKERS OF AMERICA,
AFL-CIO,

Charging Party.

SYNOPSIS

The Commission grants an appeal by the Communications Workers of America, AFL-CIO (CWA), from the Director of Unfair Practices' refusal to issue a complaint and dismissal without prejudice of an unfair practice charge filed by CWA against the State of New Jersey, Office of Employee Relations (State), alleging the State violated the Act by hiring employees that the State acknowledges are performing unit negotiations work into non-unit titles and employee-relations groups. The Commission finds: (1) CWA's allegations that the State itself placed into non-unit titles certain newly hired employees that the parties apparently agreed were performing negotiations unit work, if true, may state an unfair practice warranting the issuance of a complaint; and (2) if in the course of processing the unfair practice complaint other questions of representation arise, a clarification of unit petition may be filed.

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P.E.R.C. NO. 2023-58

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOUTH HACKENSACK BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2023-034

SOUTH HACKENSACK EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the South Hackensack Board of Education for a restraint of binding arbitration of a grievance filed by the South Hackensack Education Association, which contests the withholding of a teaching staff member's salary increment. The Commission finds that the stated basis for the increment withholding contains a mixture of reasons that are both evaluative of teaching performance and disciplinary, including allegedly inappropriate interactions with students, insubordination, and failure to follow administrative directives. On balance, the Commission finds the increment withholding was primarily disciplinary and therefore the grievance can proceed to binding arbitration.

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P.E.R.C. NO. 2023-59

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WARREN HILLS REGIONAL BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2023-112

WARREN HILLS REGIONAL EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the refusal of the Direct of Unfair Practices to issue a complaint on an unfair practice charge filed by the Warren Hills Regional Education Association. The charge alleges that the Warren Hills Regional Board of Education violated section 5.4a(5) and, derivatively, 5.4a(1) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. when it changed the schedule to include a new "zero" period, which requires teachers to meet with students for twenty minutes beginning at the start of the school day. The Association claims that teachers need to be at school earlier as a result of the scheduling change and that student contact time has increased, and that the Board implemented this unilateral schedule change after promising during contract negotiations that there would be no change in schedules for the 2022-2023 school year. The matter is currently proceeding in arbitration, and the Commission dismisses the charge as the breach of contract claims raised by the Association do not warrant the exercise of its unfair practice jurisdiction.

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P.E.R.C. NO. 2023-60

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX
Respondent,

-and-

Docket No. CO-2017-096

FOP LODGE 106,
Charging Party.

COUNTY OF ESSEX,
Respondent,

-and-

Docket No. CO-2017-105

PBA Local 382,
Charging Party.

COUNTY OF ESSEX,
Respondent,

-and-

Docket No-CO-2017-113

PBA Local 183,
Charging Party.

COUNTY OF ESSEX,
Respondent,

-and-

Docket No- CO-2017-125

PBA LOCAL 183A,
Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the County's exceptions and largely adopts a Hearing Examiner's decision on unfair practice charges alleging that the County violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq. (Act) when it decreased the level of contractual health benefits by unilaterally changing health insurance carriers from Aetna to the State Health Benefits Plan (SHBP). The Commission concurs with the Hearing Examiner that the County's unilateral change to the SHBP, as to FOP Lodge 106 and PBA Local 382, reduced their contractual level of health benefits without negotiating in good faith in violation of the Act. The Commission finds that the Hearing Examiner's remedy of reimbursement for increased costs incurred by employees due to the change in health benefits is reasonable and supported by precedent. Specifically, the Commission finds that judicial precedent supports the viability of a reimbursement fund, provided after point-of-service, as a remedy for a reduction in health benefits caused by an employer's unilateral change to the SHBP. The Commission denies PBA Local 183's exceptions, finding that the record indicates a genuine issue of material fact concerning whether PBA Local 183 agreed to change to the SHBP without additional conditions. The Commission partially grants PBA Local 183A's exceptions, thereby reversing the Hearing Examiner's grant of summary judgment to the County on PBA Local 183A's charge, by finding that the record indicates that there is a genuine issue of material fact concerning whether Local 183A consented to change to the SHBP.

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